

“C”

Gilbert v. APC, 3:03-CV-00174  
Calculation of Overtime Wages Owed John Gilbert

Gilbert OT 2A.xls

		Hrs				
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	2/19/01	11.5	8	3.5		
TUE	2/20/01	11.5	8	3.5		
WED	2/21/01	12.5	8	4.5		
THU	2/22/01	12	8	4		
FRI	2/23/01	13	8	5		
SAT	2/24/01	13.5	0	13.5		
SUN	2/25/01	12	0	12		
<b>Wkly TtIs</b>		<b>86</b>	<b>40</b>	<b>46</b>	<b>40</b>	<b>46</b>
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	2/26/01	15	8	7		
TUE	2/27/01	12.5	8	4.5		
WED	2/28/01	8	8	0		
THU	3/1/01	0	0	0		
FRI	3/2/01	0	0	0		
SAT	3/3/01	0	0	0		
SUN	3/4/01	0	0	0		
<b>Wkly TtIs</b>		<b>35.5</b>	<b>24</b>	<b>11.5</b>	<b>24</b>	<b>11.5</b>
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	3/5/01	0	0	0		
TUE	3/6/01	0	0	0		
WED	3/7/01	0	0	0		
THU	3/8/01	0	0	0		
FRI	3/9/01	0	0	0		
SAT	3/10/01	0	0	0		
SUN	3/11/01	0	0	0		
<b>Wkly TtIs</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	3/12/01	0	0	0		
TUE	3/13/01	0	0	0		
WED	3/14/01	3.5	3.5	0		
THU	3/15/01	12	8	4		
FRI	3/16/01	12	8	4		
SAT	3/17/01	11.5	8	3.5		
SUN	3/18/01	12.5	8	4.5		
<b>Wkly TtIs</b>		<b>51.5</b>	<b>35.5</b>	<b>16</b>	<b>35.5</b>	<b>16</b>
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	3/19/01	13	8	5		
TUE	3/20/01	12	8	4		
WED	3/21/01	13	8	5		
THU	3/22/01	11.5	8	3.5		
FRI	3/23/01	12.5	8	4.5		
SAT	3/24/01	13	0	13		
SUN	3/25/01	11.5	0	11.5		
<b>Wkly TtIs</b>		<b>86.5</b>	<b>40</b>	<b>46.5</b>	<b>40</b>	<b>46.5</b>

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		Hrs				
Day	Date	Worked	S.T.	G.T.	TTL ST	TTL OT
MON	3/26/01	13	8	5		
TUE	3/27/01	13	8	5		
WED	3/28/01	11.5	8	3.5		
THU	3/29/01	13	8	5		
FRI	3/30/01	13.5	8	5.5		
SAT	3/31/01	13.5	0	13.5		
SUN	4/1/01	11.5	0	11.5		
<b>Wkly Ttl</b>		<b>89</b>	<b>40</b>	<b>49</b>	<b>40</b>	<b>49</b>
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	4/2/01	13	8	5		
TUE	4/3/01	11.5	8	3.5		
WED	4/4/01	8	8	0		
THU	4/5/01	0	0	0		
FRI	4/6/01	0	0	0		
SAT	4/7/01	0	0	0		
SUN	4/8/01	0	0	0		
<b>Wkly Ttl</b>		<b>32.5</b>	<b>24</b>	<b>8.5</b>	<b>24</b>	<b>8.5</b>
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	4/9/01	0	0	0		
TUE	4/10/01	0	0	0		
WED	4/11/01	0	0	0		
THU	4/12/01	0	0	0		
FRI	4/13/01	0	0	0		
SAT	4/14/01	0	0	0		
SUN	4/15/01	0	0	0		
<b>Wkly Ttl</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	4/16/01	0	0	0		
TUE	4/17/01	0	0	0		
WED	4/18/01	0	0	0		
THU	4/19/01	0	0	0		
FRI	4/20/01	0	0	0		
SAT	4/21/01	0	0	0		
SUN	4/22/01	0	0	0		
<b>Wkly Ttl</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	4/23/01	0	0	0		
TUE	4/24/01	0	0	0		
WED	4/25/01	8	8	0		
THU	4/26/01	12	8	4		
FRI	4/27/01	13.5	8	5.5		
SAT	4/28/01	13	8	5		
SUN	4/29/01	13	8	5		
<b>Wkly Ttl</b>		<b>59.5</b>	<b>40</b>	<b>19.5</b>	<b>40</b>	<b>19.5</b>

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		Hrs				
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	4/30/01	13	8	5		
TUE	5/1/01	11.5	8	3.5		
WED	5/2/01	12	8	4		
THU	5/3/01	13	8	5		
FRI	5/4/01	13.5	8	5.5		
SAT	5/5/01	12.5	0	12.5		
SUN	5/6/01	11.5	0	11.5		
<b>Wkly TtIs</b>		<b>87</b>	<b>40</b>	<b>47</b>	<b>40</b>	<b>47</b>
		Hrs				
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	5/7/01	12.5	8	4.5		
TUE	5/8/01	13	8	5		
WED	5/9/01	12.5	8	4.5		
THU	5/10/01	13	8	5		
FRI	5/11/01	12.5	8	4.5		
SAT	5/12/01	13	0	13		
SUN	5/13/01	14	0	14		
<b>Wkly TtIs</b>		<b>90.5</b>	<b>40</b>	<b>50.5</b>	<b>40</b>	<b>50.5</b>
		Hrs				
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	5/14/01	12.5	8	4.5		
TUE	5/15/01	13	8	5		
WED	5/16/01	8	8	0		
THU	5/17/01	0	0	0		
FRI	5/18/01	0	0	0		
SAT	5/19/01	0	0	0		
SUN	5/20/01	0	0	0		
<b>Wkly TtIs</b>		<b>33.5</b>	<b>24</b>	<b>9.5</b>	<b>24</b>	<b>9.5</b>
		Hrs				
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	5/21/01	0	0	0		
TUE	5/22/01	0	0	0		
WED	5/23/01	0	0	0		
THU	5/24/01	0	0	0		
FRI	5/25/01	0	0	0		
SAT	5/26/01	0	0	0		
SUN	5/27/01	0	0	0		
<b>Wkly TtIs</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
		Hrs				
Day	Date	Worked	S.T.	O.T.	TTL ST	TTL OT
MON	5/28/01	0	0	0		
TUE	5/29/01	0	0	0		
WED	5/30/01	0	0	0		
THU	5/31/01	0	0	0		
FRI	6/1/01	0	0	0		
SAT	6/2/01	0	0	0		
SUN	6/3/01	0	0	0		
<b>Wkly TtIs</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



EXHIBIT A  
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ALASKA ADMINISTRATIVE CODE  
TITLE 8. LABOR  
PART 1. INDUSTRIAL WELFARE  
CHAPTER 15. ALASKA WAGES AND HOURS

## Article

1. Coverage and Exemptions  
(8 AAC 15.010-8 AAC 15.070) *Repealed*
2. Minimum Wages and Overtime  
(8 AAC 15.100-8 AAC 15.105)
3. Exemptions (8 AAC 15.120-8 AAC 15.145)
4. Reduction of Wages  
(8 AAC 15.160-8 AAC 15.165)
5. Procedures Relating to Violations, Investigations or Hearings (8 AAC 15.180)
6. General Provisions (8 AAC 15.900-8 AAC 15.910)

## Article 2. Minimum Wages and Overtime

## Section

100. Payment for overtime
101. Overtime for line haul truck drivers
102. Voluntary flexible work hour plans
105. Minimum wage

**8 AAC 15.100. PAYMENT FOR OVERTIME.** (a) An employee's regular rate is the basis for computing overtime. The regular rate is an hourly rate figured on a weekly basis. An employee need not actually be hired at an hourly rate. The employee may be paid by piece-rate, salary, commission, or any other basis agreeable to the employer and employee. However, the applicable compensation basis must be converted to an hourly rate when determining the regular rate for computing overtime compensation. The following provisions apply for an employee paid on a salary basis:

(1) The employment contract must set out the specific number of straight time and overtime hours the employee is expected to work each day and each week. The contract must establish a regular straight time hourly rate of pay and the appropriate overtime rate with respect to the salary to be paid and the number of hours to be worked. Changes to the pay schedule of a salaried employee must conform to the provisions of AS 23.05.160.

(2) If a contract fails to establish a fixed number of daily and weekly hours that the salary is intended to compensate, or if the actual hours of work deviate from the hours specified in the contract, the salary will be considered to be compensation for an eight-hour workday and 40-hour workweek, and overtime will be computed on that basis.

(b) In order to compute a regular hourly rate for the purpose of determining the overtime rate for an employee who is paid other than hourly or by salary, the following provisions of 29 C.F.R. Part 778 apply:

- (1) for a pieceworker, 29 C.F.R. sec. 778.111;
- (2) for an employee who works at two or more hourly rates, 29 C.F.R. sec. 778.115;

(3) for an employee who receives wages in a form other than cash, 29 C.F.R. sec. 778.116; or

(4) for an employee who receives a commission, 29 C.F.R. secs. 778.117-778.122; or

(5) for an employee who receives a bonus, 28 C.F.R. secs 778.208-778.215.

(c) When computing an employee's hours for the purpose of determining overtime, the employer shall count all hours the employee worked during that week including periods of "on call" and "standby or waiting time" required for the convenience of the employer which were a necessary part of the employee's performance of the employment. However, if the employee is completely relieved from all duties for 20 minutes or more during which the employee may use the time effectively for the employee's own purposes, then those periods need not be counted.

(d) The following are not acceptable methods of complying with the payment of overtime provisions of AS 23.10.060:

(1) guaranteed weekly pay for variable hours plan ("Belo" contracts) established under sec. 7(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207(f) as implemented in 29 C.F.R. 778.402-778.414);

(2) compensatory time (comp time) off in place of payment for overtime; and

(3) flex-time or flexitime plans established under 29 C.F.R. 778.114 providing a fixed salary for fluctuating hours up to a predetermined maximum number of hours in a workweek. (Eff. 12/9/78, Register 68; am 9/28/85, Register 95; am 4/29/99, Register 150)

Authority: AS 23.05.060 AS 23.10.085  
AS 23.10.060 AS 23.10.095

Editor's note: The federal regulations cited in 8 AAC 15.100 are reproduced on pages 26-44 of this booklet.

**8 AAC 15.101. OVERTIME FOR LINE HAUL TRUCK DRIVERS.** (a) If an employer of a line haul truck driver elects not to use the overtime rate established in AS 23.10.060(b), the employer shall establish alternate rates of overtime pay that meet the requirements of AS 23.10.060(d)(15) and this section.

(b) An alternative rate of overtime pay may be calculated as a mileage rate, a fuel usage rate, or on some other reasonable basis; however, any formula used to calculate an alternate rate of overtime pay must take into consideration the time spent performing all of the duties of a line haul truck driver on the route for which the rate was established, including the time spent

- (1) driving;
- (2) hooking up;
- (3) fueling;
- (4) tying down;
- (5) chaining up and unchaining;
- (6) performing pre-trip and in-transit equipment and load checks;
- (7) during breakdowns;

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**Sec. 23.10.060. Payment for overtime.** (a) An employer who employs employees engaged in commerce or other business, or in the production of goods or materials in the state may not employ an employee for a workweek longer than 40 hours or for more than eight hours a day. This section does not apply to the employment of a person acting in a supervisory capacity.

(b) If an employer finds it necessary to employ an employee for hours in excess of the limits set in this subsection, overtime compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid. An employee is entitled to overtime compensation for hours worked in excess of eight hours a day. An employee is also entitled to overtime compensation for hours worked in excess of 40 hours a week; in determining whether an employee has worked more than 40 hours a week, the number of hours worked shall be determined without including hours that are worked in excess of eight hours in a day because the employee has or will be separately awarded overtime compensation based on those hours.

(c) This section is considered included in all contracts of employment.

(d) This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as "regular course of business" is defined by regulations of the commissioner;

(2) an employee employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(3) an employee of an employer engaged in small mining operations where not more than 12 employees are employed, if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(4) an employee engaged in agriculture;

(5) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(6) a switchboard operator employed in a public telephone exchange that has fewer than 750 stations;

(7) an employee in an otherwise exempted employment or proprietor in a retail or service establishment engaged in handling telegraphic, telephone, or radio messages for the public under an agency or contract arrangement with a telegraph or communications company where the telegraph message or communications revenue of the agency does not exceed \$500 a month;

(8) an employee employed as a seaman;

(9) an employee employed in planting or tending trees, cruising, or surveying, or bucking, or felling timber, or in preparing or transporting logs or other forestry

products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by the employer in the forestry or lumbering operations does not exceed 12;

(10) an individual employed as an outside buyer of poultry, eggs, cream, or milk in their raw or natural state;

(11) casual employees as may be liberally defined by regulations of the commissioner;

(12) an employee of a hospital whose employment includes the provision of medical services;

(13) work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement;

(14) work performed by an employee under a voluntary flexible work hour plan if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the department; and

(B) the department has issued a certificate approving the plan that states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime;

(15) an individual employed as a line haul truck driver for a trip that exceeds 100 road miles one way if the compensation system under which the truck driver is paid includes overtime pay for work in excess of 40 hours a week or for more than eight hours a day and the compensation system requires a rate of pay comparable to the rate of pay required by this section;

(16) an individual employed as a community health aide by a local or regional health organization as those terms are defined in AS 18.28.100;

(17) work performed by a mechanic primarily engaged in the servicing of automobiles, light trucks, and motor homes if the mechanic

(A) is employed as a flat-rate mechanic by a nonmanufacturing establishment primarily engaged in the business of selling or servicing motor vehicles;

(B) has signed a written agreement with the employer that specifies the mechanic's flat hourly rate of pay and the automotive manual or manuals on which the flat rate is to be based;

(C) is compensated for all hours worked in any capacity for that employer up to and including eight hours a day and 40 hours a week at an hourly rate that is not less than the greater of

(i) 75 percent of the flat hourly rate of pay agreed upon by the employer and employee under (B) of this paragraph; or

(ii) twice the state minimum wage; and

(D) is compensated for all hours worked in any capacity for that employer in excess of eight

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